UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,369	01/22/2001	Shino Kanamori	Q62748	8599

7590 08/25/2005

SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037-3213

EXAMINER	
MISLEH, JUSTIN P	
ART UNIT	**PAPER NUMBER**
2612	

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/765,369	KANAMORI ET AL.	
	Examiner	Art Unit	
	Justin P. Misleh	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *June 10, 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 - 5 and 7- 66* is/are pending in the application.

4a) Of the above claim(s) *8, 10 - 40. 43 - 47, 49, 54, and 57 - 62* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 - 5, 7, 9, 41, 42, 48, 50 - 53, 55, 56, and 63 - 66* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *10 June 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 10 June 2005 have been fully considered but they are not persuasive.

Claim 1

Applicant argues, "Hirose does not disclose or suggest the claims displaying of information indicating the function of the switch as set forth in claim 1."

The Examiner disagrees with Applicant's argument on the basis of Hirose's disclosure in column 3 (lines 36 – 65). More specifically, Hirose states, "the design display portion 14 can present ... a display of a plurality of functions ... from an external unit ... a display for selecting a plurality of loads ... and a display conforming to a mode." The above teachings of Hirose are a clear indication that the display portion (14) of the switch (11) is displaying information relating to a function of the switch (11); hence, Hirose does in fact disclose displaying of information indicating the function of the switch as set forth in Claim 1.

Claim 41

Applicant argues, "Ohishi does not disclose or suggest that, when one of the buttons is pressed, the button functions under a condition corresponding to the inclination of the monitor screen." Applicant supports the argument by alleging, "Fig 11 clearly indicates that pressing the buttons 11a-11h on operating panel 11 and the inclination of the monitor screen 3 are unrelated."

The Examiner disagrees with Applicant's argument on the basis that inclination of the monitoring screen (3) in figure 11 is required for correct operation of the video camera (1) in figure 11. More specifically, Ohishi states, in column 7 (lines 50 – 53), "of the three operating portions 11, two are required for videoing and are mounted on the upper surfaces of the third and fourth housings 9 and 10, respectively." Furthermore, in column 8 (lines 1 – 65), Ohishi details each of the functions of the buttons (11a – 11h) and gives numerous advantages of specific button placement and button operation with respect to the inclination of the monitor screen (3), including the advantage of "reduces fatigue of the user". The above teachings of Ohishi are a clear indication that pressing the buttons 11a-11h on operating panel 11 and the inclination of the monitor screen 3 are interrelated; hence, Ohishi does in fact disclose when one of the buttons is pressed, the button functions under a condition corresponding to the inclination of the monitor screen.

Claim 52

Applicant argues, "Anderson does not disclose or suggest the claimed mechanical switches". Applicant submits that the switches in Anderson are electronic switches, not mechanical switches.

The Examiner disagrees with Applicant's argument on the basis of that switches in Anderson require a user's physical interaction for operation. More specifically, Anderson indicates that the switches (910a – 910d) are to be pressed by a user via the touch-screen (800; see column 11, lines 40 – 62). In other words, the switches (910a – 910d) are not activated by a

mouse or any other software-based pointing device; hence, the switches (910a – 910d) are in fact mechanical switches and not electronic switches as alleged by Applicant.

Disclosure

While the Examiner generally approves of Applicant's amendments to the title, specification, claims, and drawings, a minor informality to the specification still remains (see below for details).

Specification

2. The Amendment to disclosure (10 June 2005) is objected to because of the following informalities: minor typographical error.

On page 3 of the Amendment, Applicant amends the last paragraph on page 34 to recite therein, "mode of the digital camera 10a to the digital camera 10a, as in Embodiment 1." The digital camera in Embodiment 1 is recited as "digital camera 10" as stated on page 15 of the specification.

Appropriate correction is required.

Claim Objections

3. **Claims 1, 63 and 64** are objected to because of the following informalities: minor typographical errors.

For **Claims 1, 63, and 64**, the claim recites therein, "the display" wherein a "display part" has been previously introduced.

For **Claim 63 and 64**, the claim recites therein, "said input unit" wherein a "switch unit" has been previously introduced.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1, 2, 5, 7, and 9** are rejected under 35 U.S.C. 102(b) as being anticipated by Hirose et al.

A Note to the Applicant Regarding Claim 9:

As stated in the MPEP § 2111.02 (please see also Kropa v. Robie, 187 F.2d 150, 152, 88 USPQ 478, 481 – CCPA 1951), if the preamble of the claim neither recites the limitations of the claim nor is necessary to give life, meaning, and vitality to the claim; then the preamble of the claim is not served to further define the structure of the claim. Thus, in regards to Claim 9, the Examiner does not give the preamble of the claim any patentable weight since the preamble of the claim neither recites the limitations of the claim nor is necessary to give life, meaning, and vitality to the claim.

More specifically, the preamble of Claim 9 recites, "a capturing apparatus for capturing an image including an input unit" wherein the "capturing apparatus for capturing an image" is not necessary to give life, meaning, and vitality to the details of the input unit as claimed.

6. For **Claims 1 and 9**, Hirose et al. disclose, as shown in figures 3 – 5 and 8 – 10 and as stated in columns 2 (lines 32 – 51 and 60 – 65), 3 (lines 58 – 65), and 4 (lines 4 – 56), an input unit comprising:

an instruction input unit (design display portion 14 @ "approximate central portion") including a display part (LCD 17), a posture of said instruction input unit (design display portion 14) capable of being displaced (in a downward fashion as indicated in column 3, lines 1 – 33) by a pressure applied to a first face (design display portion 14) thereof including a display screen (LCD 17) of said display part (LCD 17);

a switch pressing unit (display surface 13 @ peripheral portions "surrounding the design display portion 14") provided in the vicinity of an outer periphery of a face (display surface 13 other than said first face (design display portion 14) of said instruction input unit (design display portion 14), said switch pressing unit (display surface 13) being capable of being displaced in accordance with the displacement of the instruction input unit (in a downward fashion as indicated in column 3, lines 1 – 33); and

a switch part (plunger 29; projecting shaft 31; operating shaft 34; and switch body 32) arranged to work by being pressed by said switch pressing unit (display surface 13),

wherein said display part is arranged to display information related to an operation state of an apparatus used together with said input unit (see 1st detailed explanation paragraph below), and

wherein the information displayed on the display part indicates a function of the switch pressing unit (see 2nd detailed explanation paragraph below).

Hirose et al. provides a push-button input unit comprising a central display portion (14) and a peripheral portion (14) surrounding the central display portion (14), wherein pressure applied to either the central display portion (14) and/or the peripheral portion (13) will cause the downwardly projecting shaft (31) of the plunger (29) to connect with lead-out terminals within the operating shaft (34) of the switch body (32). Therefore, the switch pressing unit (13) is displaced in accordance with the instruction input unit (14). Hence, Hirose et al. disclose, as shown in figures 8 – 10 and as stated in column 4 (lines 4 – 56), wherein said display part (LCD 17) is arranged to display information related to an operation state of an apparatus (e.g. keyboard) used together with said input unit. Also, the hooked-shaped display portions (15) provided in the switch pressing unit (13) and the display (17) provided in the instruction input unit (14) are operable to represent various modes (see figures 8 – 10) by displaying a plurality of functions (see "the advantages" in column 4).

Hirose et al. disclose in column 3 (lines 36 – 65), "the design display portion 14 can present ... a display of a plurality of functions ... from an external unit ... a display for selecting a plurality of loads ... and a display conforming to a mode." The above teaching of Hirose et al. are a clear indication that the display portion (14) of the switch (11) is displaying information relating to a function of the switch (11); hence, Hirose et al. do in fact disclose displaying of information indicating the function of the switch.

7. As for **Claim 2**, Hirose et al. disclose wherein said instruction input unit (13) presses said switch part (plunger 29; projecting shaft 31; operating shaft 34; and switch body 32) via said switch pressing unit (display surface 13) by being displaced around a position in the vicinity of a

center of gravity thereof as a displacement center in a direction perpendicular to a face on which said switch part is provided.

The switch part (plunger 29; projecting shaft 31; operating shaft 34; and switch body 32), the instruction input unit (14) and the switch pressing unit (13) lie within a plane(s) parallel to the plane of which the display (17) resides, as shown clearly in figure 4. The displacement center corresponds to the center of gravity of the instruction input unit (13), the switch pressing unit (14), and the switch part (plunger 29; projecting shaft 31; operating shaft 34; and switch body 32) such that the displacement direction is perpendicular to the instruction input unit (13) plane, the switch pressing unit (14) plane; and the switch part (plunger 29; projecting shaft 31; operating shaft 34; and switch body 32) plane. In other words, the displacement corresponds to an up and down displacement and not a lateral displacement.

8. As for **Claim 5**, Hirose et al. disclose, as shown in figures 8 – 10 and as stated in column 4 (lines 4 – 56), wherein said display part (LCD 17) is arranged to display information related to functions assigned to switches included in said switch part in the vicinity of said switches, respectively.

The hooked-shaped display portions (15) provided in the switch pressing unit (13) and the display (17) provided in the instruction input unit (14) are operable to represent various modes (see figures 8 – 10) by displaying a plurality of functions (see "the advantages" in column 4).

9. As for **Claim 7**, Hirose et al. disclose, as shown in figures 8 – 10 and as stated in columns 2 (lines 43 – 46) and 4 (lines 4 – 56), wherein said display part (LCD 17) is arranged to display

one of a plurality of background colors that is determined in accordance with an operation state of an apparatus (e.g. keyboard) used together with said input unit.

The hooked-shaped display portions (15) provided in the switch pressing unit (13) and the display (17) provided in the instruction input unit (14) are operable to represent various modes (see figures 8 – 10) by displaying a plurality of functions (see "the advantages" in column 4).

10. **Claims 41, 42, 48, 50, 63 and 64** are rejected under 35 U.S.C. 102(b) as being anticipated by Ohishi et al.

11. For **Claim 41**, Ohishi et al. disclose, as shown figure 11, a capturing apparatus (1) for capturing an image, comprising:

a display part (3) arranged to have a display screen (3) inclined with respect to a plane of a body face (the plane of first housing 2) of said capturing apparatus (1); and

a switch unit (11) including a plurality of switches (11a – 11h) arranged in surroundings of said display part (3),

wherein, when one of the plurality of switches of the switch unit is pressed, the pressed switch functions under a condition that the corresponding display screen is inclined (see detailed explanation below).

Ohishi states, in column 7 (lines 50 – 53), "of the three operating portions 11, two are required for videoing and are mounted on the upper surfaces of the third and fourth housings 9 and 10, respectively." Furthermore, in column 8 (lines 1 – 65), Ohishi details each of the functions of the buttons (11a – 11h) and gives numerous advantages of specific button placement

and button operation with respect to the inclination of the monitor screen (3), including the advantage of "reduces fatigue of the user". The above teachings of Ohishi are a clear indication that pressing the buttons 11a-11h on operating panel 11 and the inclination of the monitor screen 3 are interrelated; hence, Ohishi does in fact disclose when one of the buttons is pressed, the button functions under a condition corresponding to the inclination of the monitor screen.

12. For **Claim 42**, Ohishi et al. disclose, as shown figure 11 and as stated in column 6 (lines 64 – 67), a capturing apparatus (1) for capturing an image, comprising:

a display part (3) comprising a display screen (3); and

a switch unit (11) including at least one switch (11i – 11p) arranged in surroundings (surrounding the bottom of the display part 3) of said display part (3), said switch unit (11) being inclined with respect to a plane of a body face (first housing 2) of the capturing apparatus (1),

wherein, when one of the plurality of switches of the switch unit is pressed, the pressed switch functions under a condition that the corresponding display screen is inclined (see detailed explanation below).

Ohishi states, in column 7 (lines 50 – 53), "of the three operating portions 11, two are required for videoing and are mounted on the upper surfaces of the third and fourth housings 9 and 10, respectively." Furthermore, in column 8 (lines 1 – 65), Ohishi details each of the functions of the buttons (11a – 11h) and gives numerous advantages of specific button placement and button operation with respect to the inclination of the monitor screen (3), including the advantage of "reduces fatigue of the user". The above teachings of Ohishi are a clear indication that pressing the buttons 11a-11h on operating panel 11 and the inclination of the monitor screen

3 are interrelated; hence, Ohishi does in fact disclose when one of the buttons is pressed, the button functions under a condition corresponding to the inclination of the monitor screen.

13. As for **Claim 48**, Ohishi et al. disclose, as shown in figure 11, wherein an input unit (11o) is arranged on an upper-right side of a center (approximately at the location of switches 11l and 11m) of a face (first housing face 2) of said capturing apparatus (1) that faces a user when being used (first housing is the rear face of the capturing apparatus, see figure 15).

14. As for **Claim 50**, Ohishi et al. disclose, as stated in column 10 (lines 15 – 20), wherein said display part (3) have at least one of a function of displaying information related to functions assigned to said switches in the vicinity of said display respectively corresponding to said switches and a function of displaying information related to an operation state of said capturing apparatus (The display part 3 displays captured images in recording operation state.).

15. As for **Claims 63 and 64** (please see objection above), Ohishi et al. disclose, as stated in column 8 (lines 1 – 8), wherein at least one switch (11d) of the switch unit (11) is provided for performing zooming during videoing. Hence, the display part (3) is arranged to display information (a zoomed image) related to an operation state (videoing operation) of an apparatus (video camera 1) used together with the switch unit (11), and wherein the information displayed (zoomed image) on the display part (3) indicates a function (zoom function) of the switch unit (at least switch 11d).

16. **Claims 52, 53, 55, 56 and 65** are rejected under 35 U.S.C. 102(e) as being anticipated by Anderson.

17. For **Claim 52**, Anderson discloses, as shown in figures 3, 8, and 9D and as stated in column 11 (line 34) – column 12 (line 58), a capturing apparatus (810) for capturing an image, comprising:

an input unit ("Application Graphics Area") including a first display unit (area corresponding 288 X 196) operable to display a first displayed information (Application Graphics) and a plurality of switches (Switches 910a – 910c) arranged to form at least one pair (Up/Down/Left/Right), said switches of each of said at least one pair being opposed to each other with said first display unit sandwiched therebetween (Figure 9D clearly shows how the display area is sandwiched between the switches 910a – 910d.); and

a second display unit ("Softkey Label Area" and "Applications Graphic Area" combined; 320 X 240; it is important to note that Applicant does not distinguish between the first and second display physically, only by an assigned label),

wherein said first displayed information includes information indicating functions assigned to said switches (The arrows assigned to the switches indicate up/down/left/right cycling/scrolling functions of the switches.), and a means is provided for incorporating at least a part of said first displayed information into said second display unit (The switches in the "Applications Graphics Area" is incorporated into the second display unit, which corresponds to the combined "Softkey Label Area" and "Applications Graphic Area" display area.),

wherein said at least one pair of switches are mechanical switches (see detailed explanation below).

Anderson indicates that the switches (910a – 910d) are to be pressed by a user via the touch-screen (800; see column 11, lines 40 – 62). In other words, the switches (910a – 910d) are

not activated by a mouse or any other software-based pointing device; hence, the switches (910a – 910d) are in fact mechanical switches and not electronic switches as alleged by Applicant.

18. As for **Claim 53**, the claim language requires therein wherein said input unit is arranged on an upper-right side of a center of a face of said capturing apparatus that faces a user when said capturing apparatus is used. This limitation is written broadly enough that the input unit is not required to be arranged ONLY on an upper-right side but that it can be arranged on other sides including an upper-right side. If an input unit is arranged such that it is on all sides of a center of a face of said capturing apparatus that faces a user when said capturing apparatus is used, then the input unit satisfies the limitation.

Anderson discloses, as shown in figures 8 and 9D, the input unit ("Applications Graphics Area") is arranged such that it is on all sides of a center of a face of said capturing apparatus that faces a user when said capturing apparatus is used.

Furthermore, Anderson discloses wherein said second display unit ("Softkey Label Area" and "Applications Graphic Area" combined; 320 X 240) is arranged to display said first display information (Application Graphics) when one of said switches arranged at an upper position of a left position with respect to said first display is operated (When the switches are operated, they are displayed in an opaque state, see column 12, lines 35 – 58.).

19. As for **Claim 55**, Anderson discloses, as shown in figure 9D, wherein said switches (910a – 910d) are arranged approximately at an upper position (910a), a lower position (910c), a right position (910b) and a left position (910d) with respect to said first display unit ("Applications Graphics Area").

20. As for **Claim 56**, Anderson discloses, as shown in figures 8 and 9D, wherein said input unit and said second display unit are arranged on the same plane of a body face of said capturing apparatus (back of camera facing the user).

21. As for **Claim 65**, Anderson discloses, as shown in figures 9C and 9D, a body (touch screen 800) on which the first display unit (portion corresponding to 228 X 196) and the second display unit (Softkey Label Area) are arranged independently (Anderson explicitly shows that the second display unit is in the "Border Area" of the first display unit.)

Claim Rejections - 35 USC § 103

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

23. **Claims 3, 4 and 66** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirose et al. in view of Swayze.

24. As for **Claim 3**, while Hirose et al. disclose a switch part including a plunger (29), a projecting shaft (31), an operating shaft (34), and a switch body (32), as shown in figure 4; Hirose et al. do not disclose wherein said switch part includes switches arranged to form at least one pair, said switches of each of said at least one pair being opposed to each other with said displacement center sandwiched therebetween.

On the other hand, Swayze also disclose an input unit comprising an instruction input unit and a switch part. More specifically, Swayze teach, as shown in figure 2 and 4 and as stated

in columns 5 (lines 54 – 67) and 6 (lines 1 – 9), a switch part (four-way directional interface 70) includes switches (128, 130, 132, and 134) arranged to form at least one pair (up/down 132/134 and left/right 128/130), said switches (128 – 134) of each of said at least one pair being opposed to each other with said displacement center (90) sandwiched therebetween.

As stated in Swayze at column 2 (lines 57 – 63), at the time the invention was made, it would have been obvious to one with ordinary skill in the art to have included the four-way directional switch part teaching of Swayze, in the instruction input unit disclosed by Hirose et al., for the advantage of integrating mode selection into a single control presentation that intuitively allows the user to cycle through available choices and options with a minimum of hassle.

25. As for **Claim 4** (please see objection above), while Hirose et al. disclose a switch part including a plunger (29), a projecting shaft (31), an operating shaft (34), and a switch body (32), as shown in figure 4; Hirose et al. do not disclose wherein said switch part includes switches arranged substantially at an upper position, a lower position, a right position and a left position with respect to said displacement center.

On the other hand, Swayze also disclose an input unit comprising an instruction input unit and a switch part. More specifically, Swayze teach, as shown in figure 2 and 4 and as stated in columns 5 (lines 54 – 67) and 6 (lines 1 – 9), a switch part (four-way directional interface 70) includes switches (128, 130, 132, and 134) arranged substantially at an upper position (132), a lower position (134), a right position (130) and a left position (128) with respect to a displacement center (90).

As stated in Swayze at column 2 (lines 57 – 63), at the time the invention was made, it would have been obvious to one with ordinary skill in the art to have included the four-way

directional switch part teaching of Swayze, in the instruction input unit disclosed by Hirose et al., for the advantage of integrating mode selection into a single control presentation that intuitively allows the user to cycle through available choices and options with a minimum of hassle.

26. As for **Claim 66**, while Hirose et al. disclose a switch part including a plunger (29), a projecting shaft (31), an operating shaft (34), and a switch body (32), as shown in figure 4; Hirose et al. do not disclose wherein said first face is configured to pivot around said displacement center when said instruction input unit is pressed.

On the other hand, Swayze also disclose an input unit comprising an instruction input unit and a switch part. More specifically, Swayze teach, as shown in figure 2 and 4 and as stated in columns 5 (lines 54 – 67) and 6 (lines 1 – 9), a switch part (four-way directional interface 70) includes switches (128, 130, 132, and 134) arranged to form at least one pair (up/down 132/134 and left/right 128/130), said switches (128 – 134) of each of said at least one pair being opposed to each other with said displacement center (90) sandwiched therebetween. Further, Swayze teach that the switch part (70) is configured to pivot around said displacement center when pressed.

As stated in Swayze at column 2 (lines 57 – 63), at the time the invention was made, it would have been obvious to one with ordinary skill in the art to have included the four-way directional switch part including that the switch part is configured to pivot around said displacement center when pressed teaching of Swayze, in the instruction input unit disclosed by Hirose et al., for the advantage of integrating mode selection into a single control presentation that intuitively allows the user to cycle through available choices and options with a minimum of hassle.

27. **Claim 51** is rejected under 35 U.S.C. 103(a) as being unpatentable over Ohishi et al. in view of Hirose et al.

28. As for **Claim 51**, while Ohishi et al. disclose an image capturing apparatus (1) including a display part (3) and various modes of operation including a recording mode and reproduction mode (see column 10, lines 15 – 29) wherein images are displayed on the display part (3); Ohishi et al. do not disclose wherein the display part (3), during various operating modes, selects a background color for display from a plurality of background colors.

On the other hand, Hirose et al. also disclose an apparatus comprising a display part. More specifically, Hirose et al. teach, as shown in figures 4, 5, and 8 – 10 and as stated in columns 2 (lines 43 – 46) and 4 (lines 4 – 56), wherein the display part (3) selects a background color for display corresponding to a particular operating mode of the apparatus.
As stated in column 1 (lines 60 – 65), at the time the invention was made, it would have been obvious to one with ordinary skill in the art to have included the selected background color display part teaching of Hirose et al. in the image capturing apparatus with display part disclosed by Ohishi et al. for the advantage of providing a distinguishable display even in all lighting conditions in all environments.

Conclusion

29. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

30. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Thai Q Tran can be reached on 571.272.7382. The fax phone number for the organization where this application or proceeding is assigned is 571.273.3000.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JPM
August 20, 2005